

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christopher DeNitto	Team: Team # 2	CCRB Case #: 200513019	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/29/2005 10:30 PM	Location of Incident: Inside the 44th Precinct.	Precinct: 44	18 Mo. SOL 4/29/2007	EO SOL 4/29/2007	
Date/Time CV Reported Sun, 10/30/2005 1:31 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 10/30/2005 1:31 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Osvaldo Nunez	03579	918086	044 PCT
2. An Officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Arzina Sharpe	15512	937523	044 PCT
2. POM Patrick Ryan	29054	937461	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An Officer	Discourtesy: An Officer spoke obscenely and/or rudely to § 87(2)(b)	
B.SGT Osvaldo Nunez	Abuse: Sgt. Osvaldo Nunez threatened to arrest § 87(2)(b)	

Synopsis

On October 29, 2005, PO Arzina Sharpe arrested § 87(2)(b) § 87(2)(b) for robbery and he was taken to the 44th Precinct where he was held until being taken to § 87(2)(b) a juvenile detention center. § 87(2)(b) and § 87(2)(b) went to the precinct after learning that § 87(2)(b) § 87(2)(b) had been arrested. § 87(2)(b) is § 87(2)(b) § 87(2)(b)'s mother and § 87(2)(b) is his father. § 87(2)(b) stated that she spoke to an officer who had a "nasty attitude." § 87(2)(b) asked if she could see § 87(2)(b) § 87(2)(b) and the officer told her no, she would have to see him the next day in court. The officer then asked § 87(2)(b) "Who the hell are you?" and told her, "Take your ass out of the precinct" (**Allegation A**). § 87(2)(b) was also present and insisting that he see § 87(2)(b) § 87(2)(b) asked Sgt. Nunez numerous times if he could see § 87(2)(b) § 87(2)(b) but Sgt. Nunez refused and told § 87(2)(b) that if he did not leave the precinct he was going to be locked up with § 87(2)(b) § 87(2)(b) (**Allegation B**). § 87(2)(b) eventually agreed to leave the precinct and no further incident ensued.

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

On October 30, 2005, § 87(2)(b) called the CCRB and filed a complaint that was recorded on the call processing system. § 87(2)(b) stated that her son § 87(2)(b) § 87(2)(b) was arrested for robbery on October 29, 2005, and was taken to the 44th Precinct. § 87(2)(b) went to the 44th Precinct and spoke with § 87(2)(b) § 87(2)(b)'s arresting officer § 87(2)(b) did not provide the officers name). § 87(2)(b) stated that the officer had a "nasty attitude" and "abused his authority." § 87(2)(b) did not specify how the officer was nasty and abused his authority. The officer informed § 87(2)(b) that § 87(2)(b) § 87(2)(b) had vomited in the police car on the way to the precinct and § 87(2)(b) asked if § 87(2)(b) § 87(2)(b) could see a doctor. The officer told her no and that she could see her son Monday at court. § 87(2)(b) stated that the officer told her to, "Take her ass home" and asked, "Who the hell are you?" § 87(2)(b) stated that the officer also threatened to arrest § 87(2)(b) saying, "If you don't get out of here you'll be locked up with your son."

Civilian Statements

§ 87(2)(b) was interviewed at the CCRB on December 14, 2005. On October 29, 2005, § 87(2)(b) old § 87(2)(b) § 87(2)(b)'s son, was arrested for allegedly stealing a bicycle. § 87(2)(b) stated that at about 10pm on October 29, 2005, § 87(2)(b) § 87(2)(b)'s friends notified him that § 87(2)(b) had been arrested. At about 10:30pm § 87(2)(b) arrived at the 44th Precinct where § 87(2)(b) § 87(2)(b) had been taken. An unidentified officer (PO1, described by § 87(2)(b) as a short white male in uniform with black hair about 5'8) asked § 87(2)(b) if he needed help and § 87(2)(b) told PO1 that he was there to see his son § 87(2)(b) § 87(2)(b). PO1 told § 87(2)(b) that § 87(2)(b) § 87(2)(b) had been arrested for stealing a bicycle. § 87(2)(b) asked PO1 where the bicycle was that § 87(2)(b) § 87(2)(b) allegedly stole. PO1 said that they did not have the bike. § 87(2)(b) told PO1, "My son is a minor, you're not supposed to handcuff a minor." PO1 then became agitated and yelled at § 87(2)(b) "You don't know the law, you don't tell us what to do." § 87(2)(b) asked if he could see § 87(2)(b) § 87(2)(b) and PO1 told him that he could not see him and to come back in an hour. § 87(2)(b) told PO1 that he was not going to leave until he saw § 87(2)(b) § 87(2)(b). § 87(2)(b) stated that Sgt. Nunez (who provided § 87(2)(b) with his name) came running out from behind the desk and told him that § 87(2)(b) § 87(2)(b) was going to Spotford because he stole a bike. Sgt. Nunez then told § 87(2)(b) that if he

did not leave the precinct in five seconds he was going to get locked up with his son. Sgt. Nunez was yelling the entire time and did not speak civilly to him once. § 87(2)(b) remained in the Precinct for another 20 minutes during which time the officers in the precinct were staring him down. § 87(2)(b) attempted to explain to the officers that he was a concerned parent who wanted to see his son. Sgt. Nunez then got in his face again and was yelling very loudly at him saying, "You don't run anything here, you have to get out of this precinct. We told you to come back in an hour, you come back in an hour." § 87(2)(b) asked Sgt. Nunez if he could speak with the arresting officer and Sgt. Nunez yelled loudly, "I'm in charge here. You talk to me." § 87(2)(b) left the precinct and Sgt. Nunez followed him outside and continued to yell at him, "If you don't get away from the precinct you're going to be locked up with your son." § 87(2)(b) grandmother, § 87(2)(b) was outside and heard Sgt. Nunez say this. § 87(2)(b)

Results of Investigation

Civilians Not Interviewed

§ 87(2)(b) was not interviewed in connection with this case even though she allegedly witnessed Sgt. Nunez threaten § 87(2)(b) with arrest because Sgt. Nunez admitted to doing so. It has been determined that Sgt. Nunez was within his rights as a police officer to do so and § 87(2)(b)'s statement would not have any bearing on the outcome of the case.

§ 87(2)(b) was not interviewed in connection with this case because she was uncooperative with the investigation. § 87(2)(b) missed one scheduled appointment and did not respond to any of the investigators subsequent phone calls or letters.

Officer Identification

§ 87(2)(b) was able to obtain Sgt. Nunez's name at the time of the incident and provided it to the investigator during his CCRB interview. Sgt. Nunez identified PO Sharpe and PO Ryan as the officers who arrested § 87(2)(b) § 87(2)(b) during his CCRB interview.

Officer Statements

Sgt. Osvaldo Nunez

Sgt. Nunez was interviewed at the CCRB on February 14, 2006. Sgt. Nunez worked from 5:20pm on October 29, 2005 to 2:17am on October 30, 2005. Sgt. Nunez was on duty and in uniform and he was the impact sergeant. Sgt. Nunez did not have any entries in his memo book regarding this incident but he did have an independent recollection of what occurred.

Sgt. Nunez stated that PO Zapata called him to the scene of an arrest to verify the arrest of a § 87(2)(b) old male, § 87(2)(b) § 87(2)(b) for robbery. Sgt. Nunez stated that § 87(2)(b) § 87(2)(b) and a group of his friends beat up an unidentified male and took his cell phone. Two rookie officers, PO Sharpe and PO Ryan, made the arrest. Sgt. Nunez responded to the scene, verified the arrest and § 87(2)(b) § 87(2)(b) was transported back to the 44th Precinct. Sgt. Nunez stated that none of § 87(2)(b) § 87(2)(b)'s friends were arrested that night. Sgt. Nunez stated that upon returning to the precinct he made an entry into the command log documenting the arrest. At approximately 10:30pm § 87(2)(b) § 87(2)(b)'s father, § 87(2)(b) came into the precinct inquiring to see his son. § 87(2)(b) initially spoke with another officer (PO1) inside the Precinct but Sgt. Nunez could not recall which officer it was. PO1 was not being loud with § 87(2)(b) but § 87(2)(b) was being loud and boisterous saying, "I want to see my son, I want to see my son, I want to see what you did to my son." Sgt. Nunez stated that it was at this time that § 87(2)(b) caught his attention because he was yelling so loudly. Sgt. Nunez stated that since he was the supervisor and he responded to the scene of the arrest he went over to speak with § 87(2)(b) § 87(2)(b) was yelling loudly so he tried to speak over § 87(2)(b) in order to tell him to calm down. Sgt. Nunez explained to § 87(2)(b) that his son was arrested for robbery and due to the fact that it was a violent crime, § 87(2)(b) § 87(2)(b) was going to be put through the juvenile system and sent to Spofford. § 87(2)(b) kept insisting that he see § 87(2)(b) § 87(2)(b). Sgt. Nunez explained to § 87(2)(b) that he was not going to be able to see him because he was not going to be released due to the violent nature of the crime. § 87(2)(b) again insisted that he see his § 87(2)(b) § 87(2)(b). Sgt. Nunez again told § 87(2)(b) that he was not going to see § 87(2)(b) § 87(2)(b) that night because he was going to be put through the

system. Sgt. Nunez explained to § 87(2)(b) that he would be able to see him the next morning in family court. § 87(2)(b) continued to scream that he wanted to see § 87(2)(b) § 87(2)(b) so Sgt. Nunez told § 87(2)(b) that if he did not leave the precinct immediately, he would be arrested for disorderly conduct and trespassing. § 87(2)(b) again did not comply and remained inside the precinct. Sgt. Nunez then walked over to the front door and held it open and again asked § 87(2)(b) to leave. At this point § 87(2)(b) complied and left the precinct. Sgt. Nunez did not follow § 87(2)(b) outside and he did not notice any other officer follow § 87(2)(b) outside.

PO Arzina Sharpe

PO Sharpe was interviewed at the CCRB on May 12, 2006. On October 29, 2005, PO Sharpe worked from 3:00pm to 11:35pm with PO Patrick Ryan and PO Carlos Zapata. PO Sharpe was on duty and in uniform and assigned to auto training vehicle #1265. PO Sharpe did not have any entries in her memo book regarding this incident however she did have an independent recollection of the incident.

PO Sharpe stated that she was inside the 44th Precinct completing the arrest paper for § 87(2)(b) § 87(2)(b) whom she had arrested earlier in the evening on October 29, 2005, for robbery. Also present for the arrest were PO Ryan and PO Zapata. PO Sharpe completed the paperwork and went to the civilian waiting area to speak with § 87(2)(b) § 87(2)(b) s mother and grandmother. PO Sharpe explained to § 87(2)(b) § 87(2)(b) s mother and grandmother the arrest process and that § 87(2)(b) was going to be taken to Spofford. PO Sharpe stated that they took the news well and she did have an encounter with them. While PO Sharpe was speaking with § 87(2)(b) § 87(2)(b) s mother and grandmother, § 87(2)(b) § 87(2)(b) § 87(2)(b) s father came into the precinct and was very irate. PO Sharpe stated that § 87(2)(b) was yelling and screaming obscenities proclaiming his son's innocence. PO Sharpe did not see § 87(2)(b) speak with any officer specifically, he was just screaming in general. PO Sharpe did not see Sgt. Nunez speak with § 87(2)(b) however she did recall that numerous officers told § 87(2)(b) that he had to leave or he would be arrested because of his behavior. PO Sharpe did not hear any officer use profanity directed toward § 87(2)(b) was finally coerced to leave by § 87(2)(b) § 87(2)(b) s grandmother and no further incident ensued.

PO Patrick Ryan

PO Ryan was interviewed at the CCRB on June 2, 2006. On October 29, 2005, PO Ryan worked from 5:30pm until 2:05am on October 30, 2005 with PO Zapata and PO Sharpe. PO Ryan was on duty and in uniform and assigned to routine patrol. PO Ryan did not have any entries in his memo book regarding this incident.

PO Ryan did not have any recollection of this incident and stated that he was not present inside the precinct when this incident took place. PO Ryan did not recall the arrest of § 87(2)(b) § 87(2)(b) nor did he recall any argument that took place between Sgt. Nunez and § 87(2)(b)

Police Documents

44th Precinct Command Log: There is no entry for § 87(2)(b) § 87(2)(b) however there is an entry by PO Sharpe at 2240hrs that was voided (*Enc. 12a-12c*).

44th Precinct Tour 3 Roll Call: The tour 3 roll call confirms that Sgt. Nunez, PO Sharpe and PO Ryan were all on duty at the time of the incident (*Enc. 13a-13k*).

Prisoner Holding Pen Roster: § 87(2)(b) § 87(2)(b) is listed on the holding pen roster and in the remarks section it shows that § 87(2)(b) was transferred to § 87(2)(b) at 3:30am (*Enc. 14*).

Subject Officer's CCRB History

Sgt. Nunez

Sgt. Nunez has been a member of the NYPD for 9 years and has had one CCRB complaint substantiated against him. Sgt. Nunez was substantiated in case #200100569 for Force-Radio as club. Sgt. Nunez was found not guilty by the NYPD and did not receive a penalty (*Enc. 1a-1b*).

§ 87(2)(b) and § 87(2)(b)

Conclusions

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(g)

Allegation B: Sgt. Osvaldo Nunez threatened to arrest § 87(2)(b)

refused to calm down. § 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

Date:

Date:

Date:

Date: